In the High Court of Punjab and Haryana, Chandigarh.

CWP No. 7931 of 2005

Date of Decision: 22.9.2006

Jagdish Singh

....Petitioner

Versus

State of Punjab and others.

....Respondents.

Coram:- Hon'ble Mr.Justice J.S. Khehar.
Hon'ble Mr. Justice S.D. Anand.

Present: None for the petitioner.

Mr. Ashok Aggarwal, Addl. A.G., Punjab and
Mr. B.S. Chahal, A.A.G., Punjab
for the respondents.

...

J.S. Khehar, J. (Oral).

The Director General of Police, while exercising powers vested in him under Rule 13.21 of the Punjab Police Rules, 1934, promoted the petitioner to the rank of Inspector of Police with immediate effect. About four months thereafter, by an order dated 9.5.2005 (Annexure P-6), the order of promotion of the petitioner dated 24.1.2005 was withdrawn. This action of the authorities in withdrawing the promotion order of the petitioner against the rank of Inspector of Police, is subject matter of challenge in the instant writ petition.

It is asserted in paragraph 11 of the writ petition, that while passing the impugned order dated 9.5.2005 (Annexure P-6), neither any opportunity of hearing was afforded to the petitioner nor was any show

cause notice issued to him. It is, therefore, the case of the petitioner, that the impugned order having adverse civil consequences, has been passed without following the rules of natural justice. For the aforesaid plea, it would be pertinent to refer to the averments made in paragraph 11 of the writ petition. The same are, accordingly, extracted hereunder:-

> "That it would not be out of place to state here that while passing the impugned order dated 9.5.2005 (Annexure P-6), respondent No.2 has not afforded any opportunity of hearing/show cause to the petitioner against the proposed action. The petitioner has only come across the order without having been issued any show cause notice for annuling the order dated 24.1.2005."

The reply to the averments made in paragraph 11, as depicted in the written statement, is as under:-

> "That in reply to this para, it is submitted that the petitioner was not served show cause notice as the orders of out of turn promotion List 'F' (Executive) granted to him were without any justification. However, he has been granted out of turn adhoc promotion to the rank of Inspector of Police vide this office order No.14352/E-1(1) dated 9.5.2005 (Annexure P-6)."

From the pleadings of this case, it is, therefore apparent, that the factual position asserted in the instant writ petition, namely, before cancelling the petitioner's promotion order dated 24.1.2005 by the impugned order, neither any show cause notice was issued to the petitioner nor any opportunity of hearing was afforded to him, has remained uncontested. It is now well settled, that before an order can be passed inflicting adverse civil

consequences on an employee, it is imperative for the employer to follow the rules of natural justice.

In view of the above, the impugned order dated 9.5.2005 (Annexure P-6) is liable to be set aside. The same is, accordingly, set aside. Liberty is, however, granted to the respondents, if they be so advised, to proceed against the petitioner on the same cause of action, in accordance with law.

Disposed of in the aforesaid terms.

(J.S. Khehar)
Judge.

(S.D. Anand)
Judge.

22.09.2006
sk.